

OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

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Law and Judicial Department

Notification

LD/661/72

The Industries (Development and Regulation) Amendment Act, 1971 (72 of 1971), The Personal Injuries (Compensation Insurance) Amendment Act, 1971 (75 of 1971), The Supreme Court Judges (Conditions of Service) Amendment Act, 1971 (77 of 1971), The High Court Judges (Conditions of Service) Amendment Act, 1971 (78 of 1971), which were recently passed by the Parliament and assented to by the President of India are hereby published for general information of the public.

M. S. Borkar, Under Secretary (Law).

Panaji, 17th February, 1972.

The Industries (Development and Regulation) Amendment Act, 1971

AN ACT

to amend the Industries (Development and Regulation) Act, 1951.

Be it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Industries (Development and Regulation) Amendment Act, 1971.

(2) It shall be deemed to have come into force on the 1st day of November, 1971.

2. **Amendment of section 3.**—In the Industries (Development and Regulation) Act, 1951 (hereinafter referred to as the principal Act), in section 3,—

(i) after clause (a), the following clauses shall be inserted, namely:—

“(aa) “current assets” means bank balances and cash and includes such other assets or reserves as are expected to be realised in cash or sold or consumed within a period of not more than twelve months in the ordinary course of business, such as, stock-in-trade, amounts due

from sundry debtors for sale of goods and for services rendered, advance tax payments and bills receivable, but does not include sums credited to a provident fund, a pension fund, a gratuity fund or any other fund for the welfare of the employees, maintained by a company owning an industrial undertaking;

(ab) “current liabilities” means liabilities which must be met on demand or within a period of twelve months from the date they are incurred; and includes any current liability which is suspended under section 18FB;”;

(ii) after clause (c), the following clause shall be inserted, namely:—

“(cc) “High Court” means the High Court having jurisdiction in relation to the place at which the registered office of a company is situate;”;

(iii) after clause (i), the following clause shall be inserted, namely:—

“(j) words and expressions used herein but not defined in this Act and defined in the Companies Act, 1956, have the meanings respectively assigned to them in that Act.”.

3. **Insertion of new section 15A.**—After section 15 of the principal Act, the following section shall be inserted, namely:—

15A. **Power to investigate into the affairs of a company in liquidation.**—(1) Where a company, owing an industrial undertaking, is being wound up by or under the supervision of the High Court and the business of such company is not being continued, the Central Government may, if it is of opinion that it is necessary, in the interests of the general public and, in particular, in the interests of production, supply or distribution of articles or class of articles relatable to the concerned scheduled industry, to investigate into the possibility of running or re-starting the industrial undertaking, make an application to the High Court praying for permission to make, or cause to be made, an investigation into such possibility by such person or body of persons as that Government may appoint for the purpose.

(2) Where an application is made by the Central Government under sub-section (1), the High Court shall, notwithstanding anything contained in the Companies Act, 1956, or in any other law for the time being in force, grant the permission prayed for.” 1 of 1656

4. **Amendment of section 18.**—In section 18 of the principal Act, in sub-section (1), after the word

and figures "section 15", the words, figures and letter "or section 15A" shall be inserted.

5. Insertion of new section 18AA.—After section 18A of the principal Act, the following section shall be inserted, namely:—

'18AA. Power to take over industrial undertakings without investigation under certain circumstances.—(1) Without prejudice to any other provision of this Act, if, from the documentary or other evidence in its possession, the Central Government is satisfied, in relation to an industrial undertaking, that—

(a) the persons in charge of such industrial undertaking have, by reckless investments or creation of incumbrances on the assets of the industrial undertaking, or by diversion of funds, brought about a situation which is likely to affect the production of articles manufactured or produced in the industrial undertaking, and that immediate action is necessary to prevent such a situation; or

(b) it has been closed for a period of not less than three months (whether by reason of the voluntary winding up of the company owning the industrial undertaking or for any other reason) and such closure is prejudicial to the concerned scheduled industry and that the financial condition of the company owning the industrial undertaking and the condition of the plant and machinery of such undertaking are such that it is possible to re-start the undertaking and such re-starting is necessary in the interests of the general public,

it may, by a notified order, authorise any person or body of persons (hereafter referred to as the "authorised person") to take over the management of the whole or any part of the industrial undertaking or to exercise in respect of the whole or any part of the undertaking such functions of control as may be specified in the order.

(2) The provisions of sub-section (2) of section 18A shall, as far as may be, apply to a notified order made under sub-section (1) as they apply to a notified order made under sub-section (1) of section 18A.

(3) Nothing contained in sub-section (1) and sub-section (2) shall apply to an industrial undertaking owned by a company which is being wound up by or under the supervision of the Court.

(4) Where any notified order has been made under sub-section (1), the person or body of persons having, for the time being, charge of the management or control of the industrial undertaking, whether by or under the orders of any court or any contract, instrument or otherwise, shall, notwithstanding anything contained in such order, contract, instrument or other arrangement, forthwith make over the charge of management or control, as the case may be, of the industrial undertaking to the authorised person.

(5) The provisions of sections 18B to 18E (both inclusive) shall, as far as may be, apply to, or in relation to, the industrial undertaking, in respect of which a notified order has been made under sub-section (1), as they apply to an industrial undertaking in relation to which a notified order has been issued under section 18A.

6. Insertion of new Chapters IIIAA, IIIAB and IIIAC.—After Chapter IIIA of the principal Act, the following Chapters shall be inserted, namely:—

'CHAPTER IIIAA

Management or control of industrial undertakings owned by companies in liquidation

18FA. Power of Central Government to authorise, with the permission of the High Court, persons to take over management or control of industrial undertakings.—(1) If the Central Government is of opinion that there are possibilities of running or re-starting an industrial undertaking, in relation to which an investigation has been made under section 15A, and that such industrial undertaking should be run or re-started, as the case may be, or maintaining or increasing the production, supply or distribution of articles or class of articles relatable to the Scheduled industry, needed by the general public, that Government may make an application to the High Court praying for permission to appoint any person or body of persons to take over the management of the industrial undertaking or to exercise in respect of the whole or any part of the industrial undertaking such functions of control as may be specified in the application.

(2) Where an application is made under sub-section (1), the High Court shall make an order empowering the Central Government to authorise any person or body of persons (hereinafter referred to as the "authorised person") to take over the management of the industrial undertaking or to exercise functions of control in relation to the whole or any part of the industrial undertaking (hereinafter referred to as the "concerned part") for a period not exceeding five years:

Provided that if the Central Government is of opinion that it is expedient in the interests of the general public that the authorised person should continue to manage the industrial undertaking, or continue to exercise functions of control in relation to the concerned part, as the case may be, after the expiry of the period of five years aforesaid, it may make an application to the High Court for the continuance of such management or functions of control, for such period, not exceeding two years at a time, as may be specified in the application and thereupon the High Court may make an order permitting the authorised person to continue to manage the industrial undertaking or to exercise functions of control in relation to the concerned part:

Provided further that the total period of such continuance (after the expiry of the initial period of five years) shall not, in any case, be permitted to exceed ten years.

(3) Where an order has been made by the High Court under sub-section (2), the High Court shall direct the Official Liquidator or any other person having, for the time being, charge of the management or control of the industrial undertaking, whether by or under the orders of any court, or any contract or instrument or otherwise, to make over the management of such undertaking or the concerned part, as the case may be, to the authorised person and thereupon the authorised person shall be deemed to be the Official Liquidator in

respect of the industrial undertaking or the concerned part, as the case may be.

(4) Before making over the possession of the industrial undertaking or the concerned part to the authorised person, the Official Liquidator shall make a complete inventory of all the assets and liabilities of the industrial undertaking or the concerned part, as the case may be, in the manner specified in section 18FG and deliver a copy of such inventory to the authorised person, who shall, after verifying the correctness thereof, sign on the duplicate copy thereof as evidence of the receipt of the inventory by him.

(5) On taking over the management of the industrial undertaking, or on the commencement of the exercise of functions of control in relation to the concerned part, the authorised person shall take immediate steps to so run the industrial undertaking or the concerned part as to ensure the maintenance of production.

(6) The authorised person may, on such terms and conditions and subject to such limitations or restrictions as may be prescribed, raise any loan for the purpose of running the industrial undertaking or the concerned part, and may, for that purpose, create a floating charge on the current assets of the industrial undertaking or the concerned part, as the case may be.

(7) Where the authorised person is of opinion that the replacement or repair of any machinery of the industrial undertaking or the concerned part is necessary for the purpose of efficient running of the industrial undertaking or such part, he shall, on such terms and conditions and subject to such limitations or restrictions as may be prescribed, make such replacement or repair, as the case may be.

(8) The loan obtained by the authorised person shall be recovered from the assets of the industrial undertaking or the concerned part, in such manner and subject to such conditions as may be prescribed.

(9) For the purpose of running the industrial undertaking, or exercising functions of control in relation to the concerned part, the authorised person may employ such of the former employees of the industrial undertaking whose services became discharged by reason of the winding up of the company owning such undertaking and every such person employed by the authorised person shall be deemed to have entered into a fresh contract of service with the company.

(10) The proceedings in the winding up of the company in so far as they relate to —

(a) the industrial undertaking, the management of which has been taken over by the authorised person under this section, or

(b) the concerned part in relation to which any function of control is exercised by the authorised person under this section,

shall, during the period of such management or control, remain stayed, and, in computing the period of limitation for the enforcement of any right, privilege, obligation or liability in relation to such undertaking or the concerned part, the period during which such proceedings remained stayed shall be excluded.

CHAPTER IIIA-B

Power to provide relief to certain industrial undertakings

18FB. Power of Central Government to make certain declarations in relation to industrial undertakings, the management or control of which has been taken over under section 18A, section 18AA or section 18FA. — (1) The Central Government may, if it is satisfied, in relation to an industrial undertaking or any part thereof, the management or control of which has been taken over under section 18A, whether before or after the commencement of the Industries (Development and Regulation) Amendment Act, 1971, or under section 18AA or section 18FA, that it is necessary so to do in the interests of the general public with a view to preventing fall in the volume of production of any scheduled industry, it may, by notified order, declare that —

(a) all or any of the enactments specified in the Third Schedule shall not apply or shall apply with such adaptations whether by way of modification, addition or omission (which does not, however, affect the policy of the said enactments) to such industrial undertaking, as may be specified in such notified order, or

(b) the operation of all or any of the contracts, assurances of property, agreements, settlements, awards, standing orders or other instruments in force (to which such industrial undertaking or the company owning such undertaking is a party or which may be applicable to such industrial undertaking or company) immediately before the date of issue of such notified order shall remain suspended or that all or any of the rights, privileges, obligations and liabilities accruing or arising thereunder before the said date, shall remain suspended or shall be enforceable with such adaptations and in such manner as may be specified in the notified order.

(2) The notified order made under sub-section (1) shall remain in force, in the first instance, for a period of one year, but the duration of such notified order may be extended from time to time by a further notified order by a period not exceeding one year at a time:

Provided that no such notified order shall, in any case, remain in force —

(a) after the expiry of the period for which the management of the industrial undertaking was taken over under section 18A, section 18AA or section 18FA, or

(b) for more than five years in the aggregate from the date of issue of the first notified order, whichever is earlier.

(3) Any notified order made under sub-section (1) shall have effect notwithstanding anything to the contrary contained in any other law, agreement or instrument or any decree or order of a court, tribunal, officer or other authority or of any submission, settlement or standing order.

(4) Any remedy for the enforcement of any right, privilege, obligation or liability referred to in clause (b) of sub-section (1) and suspended or modified by a notified order made under that sub-section shall, in accordance with the terms of the notified order, remain suspended or modified, and all proceedings relating thereto pending before any court, tribunal, officer or other authority shall

accordingly remain stayed or be continued subject to such adaptations, so, however, that on the notified order ceasing to have effect —

(a) any right, privilege, obligation or liability so remaining suspended or modified shall become revived and enforceable as if the notified order had never been made;

(b) any proceeding so remaining stayed shall be proceeded with, subject to the provisions of any law which may then be in force, from the stage which had been reached when the proceedings became stayed.

(5) In computing the period of limitation for the enforcement of any right, privilege, obligation or liability referred to in clause (b) of sub-section (1), the period during which it or the remedy for the enforcement thereof remained suspended shall be excluded.

CHAPTER IIIAC

Liquidation or reconstruction of companies

18FC. Power of Central Government to call for report on the affairs and working of managed company. — Where the management or control of an industrial undertaking has been taken over under section 18A, whether before or after the commencement of the Industries (Development and Regulation) Amendment Act, 1971, or under section 18AA or section 18FA, the Central Government may, at any time during the continuance of such management or control, call for a report from the authorised person on the affairs and working of the industrial undertaking and in submitting the report the authorised person shall take into account the inventory and the lists of members and creditors prepared under section 18FG.

18FD. Decision of Central Government in relation to managed company. — (1) If, on receipt of the report submitted by the authorised person, the Central Government is satisfied, —

(a) in relation to the company owning the industrial undertaking, which is not being wound up by the High Court, that the financial condition and other circumstances of the company are such that it is not in a position to meet its current liabilities out of its current assets, that Government may, if it considers necessary or expedient in the interests of the general public so to do, by order, decide that the industrial undertaking should be sold as a running concern as provided in section 18FE and proceedings should simultaneously be started for the winding up, by the High Court, of the Company;

(b) in relation to the company, owning the industrial undertaking, which is being wound up by the High Court, that its assets and liabilities are such that in the interests of its creditors and contributories the industrial undertaking should be sold as a running concern as provided in section 18FE, it may, by order, decide accordingly.

(2) Notwithstanding anything contained in sub-section (1), if, on receipt of the report sub-

mitted by the authorised person, the Central Government is satisfied that —

(a) in the interests of the general public, or

(b) in the interests of the shareholders, or

(c) to secure the proper management of the company owning the industrial undertaking,

it is necessary so to do, that Government may, by order, decide to prepare a scheme for the reconstruction of the company owning the industrial undertaking:

Provided that no such scheme shall be prepared in relation to a company which is being wound up by or under the supervision of the High Court, except with the previous permission of that Court.

(3) The powers exercisable by the Central Government under section 18F, in relation to an undertaking taken over under section 18A, shall also be exercisable in relation to an undertaking taken over under section 18AA or section 18FA, but such powers shall not be exercised after the making of an order under sub-section (1) or, as the case may be, under sub-section (2) of this section.

18FE. Provisions where Government decides to follow the course of action specified in section 18FD(1). — (1) The provisions hereinafter laid down shall apply where the Central Government decides that the course of action specified in sub-section (1) of section 18FD should be followed, namely: —

(a) the decision of the Central Government that the course of action specified in clause (a) of sub-section (1) of section 18FD should be followed in relation to a company owning an industrial undertaking shall be deemed to be a ground specified in section 433 of the Companies Act, 1956, on which the company may be wound up by the High Court; 1 of 1956.

(b) the authorised person shall, as soon as may be, after the decision specified in clause (a) of sub-section (1) of section 18FD has been taken by the Central Government, present an application to the High Court for the winding up of the company owning the industrial undertaking;

(c) when an application is made by the authorised person, under clause (b), for the winding up, by the High Court, of the company owning the industrial undertaking, the High Court shall order the winding up of the company and shall, notwithstanding anything contained in the Companies Act, 1956, appoint the authorised person as the Official Liquidator in relation to such undertaking; 1 of 1956.

(d) whenever the Central Government decides under clause (b) of sub-section (1) of section 18FD that the industrial undertaking should be sold as a running concern, it shall cause a copy of its decision to be laid before the High Court;

(e) until the industrial undertaking referred to in clause (a) or clause (b) of sub-section (1) of section 18FD is sold or purchased in pursuance of this section, the authorised person shall continue to function as the Official Liquidator in relation to the said undertaking in the winding up proceedings of the company, and, thereafter the Official Liquidator appointed by the Central Government under section 448 of the Companies Act, 1956, shall take over and function as the Official Liquidator in the said proceedings. 1 of 1956.

(2) The authorised person shall make a report to the Central Government as to what should be the reserve price for the sale of the industrial undertaking as a running concern.

(3) In making a report under sub-section (2), the authorised person shall have regard to —

(a) the financial condition of the company owning the industrial undertaking on the date on which the order under section 18FD is made —

- (i) as disclosed in its books of account,
- (ii) as disclosed in its balance-sheet and profit and loss account during a period of five years immediately preceding the said date;

(b) the condition and nature of the plant, machinery, instruments and other equipment from the point of view of their suitability for profitable use in the running of the industrial undertaking;

(c) the total amount of liability on account of secured and unsecured debts including overdrafts, if any, drawn on banks, liabilities on account of terminal benefits to the employees and other borrowings and other liabilities of the company; and

(d) other relevant factors including the factor that the industrial undertaking will be sold free from all incumbrances.

(4) Notice of the reserve price determined by the authorised person shall be given in such manner as may be prescribed to the members and creditors of the company owning such industrial undertaking to make representations within a specified time to the Central Government through the authorised person and the Central Government shall, after considering the representations received and the report of the authorised person, determine the reserve price.

(5) The authorised person shall thereafter, with the permission of the High Court, invite tenders from the public in such manner as may be determined by the High Court for the sale of the industrial undertaking as a running concern subject to the condition that it will be sold to the person offering the highest price which shall not be less than the reserve price determined under sub-section (4):

Provided that the High Court shall not refuse to grant such permission if it is satisfied that the company is not in a position to meet its current liabilities out of its current assets.

(6) The industrial undertaking shall be sold to the highest bidder, as a running concern, only if the price offered by him therefor is not less than the reserve price.

(7) Where no offer of price is equal to, or more than, the reserve price, the industrial undertaking shall be purchased by the Central Government at the reserve price.

(8) (a) The amount realised from the sale of the industrial undertaking as a running concern together with any other sum which may be realised from any contributory, purchaser or any other person from whom any money is due to the company shall be utilised in accordance with the provisions of the Companies Act, 1956, in discharging the liabilities of the company and distributing the balance, if any, amongst the members of the company. 1 of 1956.

(b) In other respects, the provisions of the Companies Act, 1956, relating to the winding up of a company by the High Court shall, as far as may be, apply. 1 of 1956.

(9) When an industrial undertaking is sold to any person under sub-section (6), or purchased by the Central Government under sub-section (7), there shall be transferred to and vested in the purchaser, free from all incumbrances, all such assets relating to the industrial undertaking as are referred to in sub-clause (i) of clause (a) of section 18FG and existing at the time of the sale or purchase.

18FFF. Provisions where Government decides to follow the course of action specified in section 18FD(2).— (1) Where in any case the Central Government decides that the course of action specified in sub-section (2) of section 18FD should be followed, it shall, subject to the provisions of that sub-section, cause to be prepared, by the authorised person, a scheme for the reconstruction of the company, owning the industrial undertaking, in accordance with the provisions hereinafter contained and the authorised person shall submit the same for the approval of that Government.

(2) The scheme for the reconstruction of the company owning the industrial undertaking may contain provisions for all or any of the following matters, namely:—

(a) the constitution, name and registered office, the capital, assets, powers, rights, interests, authorities and privileges, the liabilities, duties and obligations of the company on its reconstruction;

(b) any change in the Board of directors, or the appointment of a new Board of directors of the company on its reconstruction and the authority by whom, the manner in which and the other terms and conditions on which, such change or appointment shall be made and in the case of appointment of a new Board of directors or of any director, the period for which such appointment shall be made;

(c) the vesting of controlling interest, in the reconstructed company, in the Central Government either by the appointment of additional

directors or by the allotment of additional shares;

(d) the alteration of the memorandum and articles of association of the company, on its reconstruction, to give effect to such reconstruction;

(e) subject to the provisions of the scheme, the continuation by or against the company, on its reconstruction, of any action or proceedings pending against the company immediately before the date of its reconstruction;

(f) the reduction of the interest or rights which the members and creditors have in or against the company before its reconstruction to such extent as the Central Government may consider necessary in the interests of the general public or in the interests of the members and creditors or for the maintenance of the business of the company:

Provided that nothing contained in this clause shall be deemed to authorise the reduction of the interest or rights of any creditor (including Government) in respect of any loan or advance made by that creditor to the company after the date on which the management of the industrial undertaking of the company has been taken over under section 18A, section 18AA, or section 18FA;

(g) the payment in cash or otherwise to the creditors in full satisfaction of their claim —

(i) in respect of their interest or rights in or against the company before its reconstruction; or

(ii) where their interest or rights in or against the company has or have been reduced under clause (f), in respect of such interest, or rights as so reduced;

(h) the allotment to the members of the company for shares held by them therein before its reconstruction [whether their interest in such shares has been reduced under clause (f) or not], of shares in the company on its reconstruction and where it is not possible to allot shares to any members, the payment in cash to those members in full satisfaction of their claim —

(1) in respect of their interest in shares in the company before its reconstruction; or

(2) where such interest has been reduced under clause (f), in respect of their interest in shares as so reduced;

(i) the offer by the Central Government to acquire by negotiations with the members of the company their respective shares on payment in cash to those members who may volunteer to sell their shares to the Central Government in full satisfaction of their claim —

(1) in respect of their interest in shares in the company before its reconstruction; or

(2) where such interest has been reduced under clause (f), in respect of their interest in shares as so reduced;

(f) the conversion of any debentures issued by the company after the taking over of the management of the company under section 18A or section 18AA or section 18FA or of any loans

obtained by the company after that date or of any part of such debentures or loans, into shares in the company and the allotment of those shares to such debenture-holders or creditors, as the case may be;

(k) the increase of the capital of the company by the issue of new shares and the allotment of such new shares to the Central Government;

(l) the continuance of the services of such of the employees of the company as the Central Government may specify in the scheme in the company itself, on its reconstruction, on such terms and conditions as the Central Government thinks fit;

(m) notwithstanding anything contained in clause (l), where any employees of the company whose services have been continued under clause (l) have, by notice in writing given to the company at any time before the expiry of one month next following the date on which the scheme is sanctioned by the High Court, intimated their intention of not becoming employees of the company, on its reconstruction, the payment to such employees and to other employees whose services have not been continued on the reconstruction of the company, of compensation, if any, to which they are entitled under the Industrial Disputes Act, 1947, and such pension, gratuity, provident fund and other retirement benefits ordinarily admissible to them under the rules or authorisations of the company immediately before the date of its reconstruction;

14 of 1947.

(n) any other terms and conditions for the reconstruction of the company;

(o) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction of the company shall be fully and effectively carried out.

(3) (a) A copy of the scheme, as approved by the Central Government, shall be sent in draft to the company, to the registered trade unions, if any, of which the employees of the company are members and to the creditors thereof for suggestions and objections, if any, within such period as the Central Government may specify for this purpose.

(b) The Central Government may make such modifications, if any, in the draft scheme as it may consider necessary in the light of the suggestions and objections received from the company, from the registered trade unions of which the employees of the company are members and from any members or creditors of the company.

(4) The scheme shall thereafter be placed before the High Court for its sanction and the High Court, if satisfied that the scheme is in the interests of the general public or in the interests of the shareholders or for securing the proper management of the company and that the scheme is designed to be fair and reasonable to the members and creditors of the company, may, after giving a reasonable opportunity to the company and to its members and creditors of showing cause, sanction the

scheme without any modification or with such modifications as it may consider necessary.

(5) The scheme, as so sanctioned by the High Court, shall come into force on such date as that Court may specify in this behalf:

Provided that different dates may be specified for different provisions of the scheme.

(6) The sanction accorded by the High Court under sub-section (4) shall be conclusive evidence that all the requirements of this section relating to the reconstruction of the company have been complied with, and a copy of the sanctioned scheme certified by the High Court to be a true copy thereof, shall, in all legal proceedings (whether original or in appeal or otherwise), be admitted as evidence to the same extent as the original scheme.

(7) On and from the date of the coming into operation of the scheme or any provision thereof, the scheme or such provision shall be binding on the company and also on all the members and other creditors and employees of the company and on any other person having any right or liability in relation to the company.

(8) On the coming into operation of the scheme or any provision thereof, the authorised person shall cease to function, and the management of the reconstructed company shall be assumed by the Board of directors as provided in the scheme.

(9) Copies of the scheme shall be laid before each House of Parliament, as soon as may be, after the scheme has been sanctioned by the Court.

(10) The provisions of this section and of any scheme made thereunder shall have effect notwithstanding anything contained in section 391 to 394A (both inclusive) of the Companies Act, 1956.

1 of 1956.

18FG. Preparation of inventory of assets and liabilities and list of members and creditors of managed company.—For the purposes of this Act, the authorised person shall, as soon as may be, after taking over the management of the industrial undertaking of a company under section 18A or section 18AA or section 18FA,—

(a) prepare a complete inventory of—

(i) all properties, movable and immovable, including lands, buildings, works, workshops, stores, instruments, plant, machinery, automobiles and other vehicles, stocks of materials in the course of production, storage or transit, raw materials, cash balances, cash in hand, deposits in bank or with any other person or body or on loan, reserve funds, investments and book debts and all other rights and interests arising out of such property as were immediately before the date of taking over of the industrial undertaking in the ownership, possession, power or control of the company, whether within or without India; and all books of account, registers, maps, plans, sections, drawings, records, documents or titles of ownership of property, and all other documents of whatever nature relating thereto; and

(ii) all borrowings, liabilities and obligations of whatever kind of the company including liability on account of terminal benefits to its employees subsisting immediately before the said date;

(b) prepare separately a list of members, and a list of creditors, of such company as on the date of taking over of the management of the industrial undertaking showing separately in the list of creditors, the secured creditors and the unsecured creditors:

Provided that where the management of the industrial undertaking of a company has been taken over under the said section 18A before the commencement of the Industries (Development and Regulation) Amendment Act, 1971, the aforesaid functions shall be performed by the authorised person within six months from such commencement.

18FH. Stay of suits and other proceedings.—In the case of a company in respect of which an order under section 18FD has been made, no suit or other legal proceeding shall be instituted or continued against the company except with the previous permission of the Central Government or any officer or authority authorised by that Government in this behalf.

7. Amendment of section 25.—In sub-section (1) of section 25 of the principal Act, for the word, figures and letter “and 18A”, the word, figures and letters “, 18A, 18AA and 18FA” shall be substituted.

8. Insertion of new section 29D.—After section 29C of the principal Act, the following section shall be inserted, namely:—

“29D. Debts incurred by authorised person to have priority.—Every debt arising out of any loan obtained by the authorised person for carrying on the management of, or exercising functions of control in relation to, an industrial undertaking or part thereof, the management of which has been taken over under section 18A or section 18AA or section 18FA,—

(a) shall have priority over all other debts, whether secured or unsecured, incurred before the management of such industrial undertaking was taken over;

(b) shall be a preferential debt within the meaning of section 530 of the Companies Act, 1956,

1 of 1956.

and such debts shall rank equally among themselves and be paid in full out of the assets of the industrial undertaking unless such assets are insufficient to meet them, in which case they shall abate in equal proportions”.

9. Amendment of section 30.—In section 30 of the principal Act, in sub-section (2), after clause (p), the following clause shall be inserted, namely:—

“(pp) any matter which is to be or may be prescribed for giving effect to the provisions of Chapter IIIAA or Chapter IIIAC.”.

10. Insertion of new Schedule.—In the principal Act, after the Second Schedule, the following Schedule shall be inserted, namely:—

"THE THIRD SCHEDULE

(See section 18FB)

1. The Industrial Employment (Standing Orders) Act, 1946. 20 of 1946.
2. The Industrial Disputes Act, 1947. 14 of 1947.
3. The Minimum Wages Act, 1948." 11 of 1948.

11. **Repeal and savings.**—(1) The Industries (Development and Regulation) Amendment Ordinance, 1971 and the Cotton Textile Companies (Management of Undertakings and Liquidation or Reconstruction) Act, 1967 are hereby repealed. Ord. 20 of 1971. 29 of 1967.

(2) Notwithstanding such repeal,—

(a) anything done or any action taken under the principal Act as amended by the Ordinance so repealed, shall have effect as if it were done or taken under the corresponding provisions of the principal Act as amended by this Act;

(b) anything done or any action taken or any order, rule or appointment made, scheme prepared or reserve price fixed under the Cotton Textile Companies (Management of Undertakings and Liquidation or Reconstruction) Act, 1967, before the commencement of the Ordinance so repealed shall, in so far as it is not inconsistent with the provisions of the Industries (Development and Regulation) Act, 1951, as amended by this Act, be deemed to have been done, taken, made, prepared or fixed under the corresponding provisions of the Industries (Development and Regulation) Act 1951, as so amended, as if the said Act, as so amended, were in force on the date on which such thing was done, action was taken, order, rule or appointment was made, scheme was prepared and reserve price was fixed and any proceeding commenced under the Cotton Textile Companies (Management of Undertakings and Liquidation or Reconstruction) Act, 1967, which was pending immediately before the commencement of the Ordinance so repealed may be continued from the stage which was reached in such proceeding immediately before such commencement as if such proceeding were commenced under the corresponding provisions of the Industries (Development and Regulation) Act, 1951, as amended by this Act. 29 of 1967. 65 of 1951.

The Personal Injuries (Compensation Insurance) Amendment Act, 1971

AN
ACT

further to amend the Personal Injuries (Compensation Insurance) Act, 1963.

Be it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

1. **Short title.**—This Act may be called the Personal Injuries (Compensation Insurance) Amendment Act, 1971.

2. **Amendment of section 2.**—In section 2 of the Personal Injuries (Compensation Insurance) Act, 1963 (hereinafter referred to as the principal Act), for clause (f), the following clause shall be substituted, namely:—

“(f) “period of emergency” means, in relation to the Proclamation of Emergency issued under clause (1) of article 352 of the Constitution,—

(i) on the 26th day of October, 1962, the period beginning with the 26th day of October, 1962, and ending with the 10th day of January, 1968, that is to say, the date on which the said Emergency was declared, by notification of the Government of India in the Ministry of Home Affairs, No. G.S.R. 93, dated the 10th January, 1968, to have come to an end;

(ii) on the 3rd day of December, 1971, the period beginning with the 3rd day of December, 1971, and ending with such date as the Central Government may, by notification in the Official Gazette, declare to be the date on which the said emergency shall come to an end;”

3. **Amendment of section 3.**—In section 3 of the principal Act, in clause (a), for the words and figures “Defence of India Rules, 1962;”, the words and figures “Defence of India Rules, 1962, or under rule 119 of the Defence of India Rules, 1971;” shall be substituted.

4. **Amendment of section 8.**—In section 8 of the principal Act, to sub-section (1), the following proviso shall be added, namely:—

“Provided that different Schemes shall be put into operation in relation to different periods of emergency.”

5. **Removal of doubts.**—For the avoidance of doubts, it is hereby declared that every Scheme made under the Personal Injuries (Compensation Insurance) Act, 1963, providing for compensation in respect of personal injuries sustained during the period of emergency beginning with the 26th day of October, 1962, and ending with the 10th day of January, 1968, shall continue to be in force and every person entitled to compensation under the said Scheme shall continue to receive such compensation in accordance with the provisions of such Scheme. 37 of 1963.

The Supreme Court Judges (Conditions of Service) Amendment Act, 1971

AN
ACT

to amend the Supreme Court Judges (Conditions of Service) Act, 1958.

Be it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Supreme Court Judges (Conditions of Service) Amendment Act, 1971.

(2) Section 3 shall be deemed to have come into force on the 1st day of May, 1958, clauses (a) and (b) of section 4 shall be deemed to have come into force on the 17th day of October, 1958 and the other provisions of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of section 3.—In section 3 of the Supreme Court Judges (Conditions of Service) Act, 1958 (hereinafter referred to as the principal Act), in sub-section (1), for clause (a), the following clause shall be substituted, namely:—

“(a) leave on full allowances (including commuted leave on half allowances into leave on full allowances on medical certificate); or”.

3. Amendment of section 4.—In clause (a) of sub-section (2) of section 4 of the principal Act,—

(a) in sub-clause (i), the word “and”, occurring at the end, shall be omitted;

(b) after sub-clause (ii), the following sub-clause shall be inserted, namely:—

“(iii) where the Judge was, prior to his appointment as such, a Judge of a High Court, the period of leave earned by him as a Judge of the High Court, so, however, that such period shall not exceed four months in terms of leave on half allowances; and”.

4. Amendment of section 5.—In section 5 of the principal Act,—

(a) in sub-section (1), after the words “three years”, the brackets, words, figures and letter “[including the period credited to his leave account under sub-section (2) (a) (iii) of section 4 as leave earned by him as a Judge of a High Court.]” shall be inserted;

(b) in sub-section (2), for the words, brackets, figures and letter “credited to his leave account under sub-section (2) (a) (ii) of section 4 as compensation for vacation not enjoyed.”, the following shall be substituted, namely:—

“credited to his leave account—

(a) under sub-section (2) (a) (ii) of section 4 as compensation for vacation not enjoyed, and

(b) under sub-section (2) (a) (iii) of section 4 as leave earned by him as a Judge of a High Court.”;

(c) in sub-section (3), for the words “The maximum period of leave which may be granted”, the words, brackets, figures and letter “Subject to the provisions of sub-section (2) of section 5A, the maximum period of leave which may be granted” shall be substituted.

5. Insertion of new section 5A.—After section 5 of the principal Act, the following section shall be inserted, namely:—

5A. Commutation of leave on half allowances into leave on full allowances.—(1) Notwithstanding anything contained in sub-section (2) of section 5, a Judge may be permitted to commute

leave on half allowances into leave on full allowances on medical certificate up to a maximum of three months during the whole period of his leave as a Judge.

(2) In computing the maximum period of leave on full allowances which may be granted at one time to a Judge under sub-section (3) of section 5, the amount of commuted leave permitted to him under this section shall not be taken into account.”.

6. Amendment of section 9.—In section 9 of the principal Act, to sub-section (2), the following proviso shall be added, namely:—

“Provided that the monthly rate of leave allowances payable to a Judge in respect of leave credited to his leave account under sub-section (2) (a) (iii) of section 4 shall not exceed the rate of leave allowances admissible to him therefor as a Judge of a High Court and shall be payable by the State Government concerned.”.

7. Amendment of section 24.—In section 24 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

The High Court Judges (Conditions of Service) Amendment Act, 1971

AN
ACT

*further to amend the High Court Judges
(Conditions of Service) Act, 1954.*

Be it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the High Court Judges (Conditions of Service) Amendment Act, 1971.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of section 2.—In section 2 of the High Court Judges (Conditions of Service) Act, 1954 (hereinafter referred to as the principal Act), in sub-section (1), in sub-clause (ii) of clause (h), for the words “one month”, the words “fortyfive days” shall be substituted.

3. **Amendment of section 3.**—In section 3 of the principal Act, in sub-section (1), for clause (a), the following clause shall be substituted, namely:—

“(a) leave on full allowances (including commuted leave on half allowances into leave on full allowances on medical certificate); or”.

4. **Amendment of section 5.**—In section 5 of the principal Act, in sub-section (3), for the words “The maximum period of leave which may be granted”, the words, brackets, figures and letter “Subject to the provisions of sub-section (2) of section 5A, the maximum period of leave which may be granted” shall be substituted.

5. **Insertion of new section 5A.**—After section 5 of the principal Act, the following section shall be inserted, namely:—

“5A. **Commutation of leave on half allowances into leave on full allowances.**—(1) Notwithstanding anything contained in sub-section (2) of section 5, a Judge may be permitted to commute leave on half allowances into leave on full allowances on medical certificate up to a maximum of three months during the whole period of his service as a Judge.

(2) In computing the maximum period of leave on full allowances which may be granted at one time to a Judge under sub-section (3) of section 5, the amount of commuted leave permitted to him under this section shall not be taken into account.”.

6. **Amendment of section 9.**—In section 9 of the principal Act, in sub-section (1), for the words “for the first month of such leave”, the words “for the first forty-five days of such leave” shall be substituted.

Labour and Information Department

Mormugao Port Trust

Notification

MPT/IGA(77)/72

As required under Section 124(2) of the Major Port Trusts Act, 1963, the following amendment to the Mormugao Port Employees' (Supplementary

Leave) Regulations, 1966 adopted by the Board of Trustees is hereby published:—

«Delete Regulation 8 of Part III of Mormugao Port Employees (Supplementary Leave) Regulations, 1966 and renumber the following regulations as 8 to 15».

By order,

Shivakumar Dhindaw

Secretary

Mormugao, 22nd Febraury, 1972.

(2nd time)

Government Press

Notice

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